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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/622,491

07/21/2003

Brian Roberts

10750-250

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1059 7590 08/20/2008

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EXAMINER

LARSON, JUSTIN MATTHEW

ART UNIT

PAPER NUMBER

3782

MAIL DATE

DELIVERY MODE

08/20/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/622,491

Applicant(s)

ROBERTS, BRIAN

Examiner

Justin M. Larson

Art Unit

3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3, 17-19, 22-24, 26, 28-33, 35 and 37-62 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3, 17-19, 22-24, 26, 28-33, 35 and 37-62 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/27/08 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 17-19, 22-24, 26, 28, 30-33, 35, 37-39, 41, 42, 44, 45, 47, 48, 50-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ivarson et al. (US 6,474,524 B1) in view of Gausling et al. (US 6,164,509 A), further in view of Clements (US 6,024,265 A), and finally in view of Godshaw (US 6,601,743 B2).

Regarding claims 17, 26, 28, 30, 33, 35, 52, and 54-62, Ivarson et al. disclose a backpack comprising a backpack body, said backpack body having a back-facing face (16), and an away facing face generally opposed to said back-facing face, said backpack body defining at least one storage compartment having a bottom (14), a closure member (32) and a top that is openable by the closure member, wherein said

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bottom is angled upwards in a direction away from said back-facing face, where said backpack is configured to maintain said bottom generally in said direction when said backpack contains a load therein; and at least one shoulder strap (38) connected to said backpack body and extending between a first end point proximate the top of the backpack body and a second end point proximate the bottom of the backpack body and spaced from the away-facing face, wherein the second end point is adjacent the back-facing face, and wherein said at least one shoulder strap is adapted for mounting said backpack on a wearer; and wherein said backpack body has an away-facing face (24) generally opposed to said back-facing face.

Ivarson et al. fails to disclose a semi-rigid bottom board positioned at said bottom; at least one side cinch strap extending over the closure member; and at least one shoulder strap cinch strap connected between the backpack body and shoulder strap and extending across the closure member; where both the side and shoulder strap cinch straps include a separation clip that is separable whereby unobstructed access is provided to the storage compartment that is openable by the closure member when the separation clips are separated.

Regarding the semi-rigid bottom board, Gausling et al. teaches that a rigid bottom on a backpack body provides added support and ergonomic utility to the backpack (col. 7 lines 12-17). Gausling et al. further teaches that this rigidity along the bottom of the backpack body can be provided by inserting a rigid member such as a hard Nylon sheet inside a pocket formed by the bottom panel of the backpack (col. 7 lines 34-36). It would have been obvious to one having ordinary skill in the art at the

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time the invention was made to provide rigidity along the bottom surface of the Ivarson et al. backpack by implementing a semi-rigid bottom board along the bottom surface, as taught by Gausling et al., in order to provide additional support and ergonomic utility to the backpack.

Regarding the side cinch strap positioned at a middle region of the backpack and connected to the backpack body for cinching the away-facing face and back-facing faces towards each other, Clements discloses a side cinch strap (25) positioned at a middle region of a backpack and connected to the backpack body for pressing against a load contained within the backpack to control movement of that load (col. 4 lines 38-41). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide side cinch straps at the sides of the backpack of Ivarson et al. in order to better control the movement of the backpack load upon the user, as taught by Clements. Regarding this side cinch strap being positioned over the closure member (32) of Ivarson et al., it would have been obvious to one having ordinary skill in the art at the time the invention was made to position the side cinch strap of the modified Ivarson et al. backpack high enough up the sides of the backpack so as to overlie the closure (32), since such a position is one of a limited number of placement choices, and it would have been within the level of ordinary skill in the art to choose between those limited number of placement choices along the side of the Ivarson et al. backpack.

Regarding the shoulder strap cinch strap extending over the closure member, Gausling et al. teach a strap system where support straps (600) extend from a

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backpack's shoulder strap over the top of the backpack to an away-facing face of the backpack, the support straps functioning to maintain the shape of the bag and offer further support for the load being carried (col. 9 lines 5-27). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide support straps on top of the backpack of Ivarson et al., as taught by Gausling et al., in order to help maintain the shape of the bag and to provide more support for the load being carried in the backpack. These straps, when implemented on the backpack of Ivarson et al. would certainly extend across the closure (32) of Ivarson et al. There is no inventive step in taking a shoulder strap feature from one backpack and implementing that feature on the shoulder strap of another backpack absent a showing of unexpected results.

Regarding the cinch straps having separation clips, the cinch straps that have been added to the Ivarson et al. backpack are not separable and inhibit a user's ability to access the interior of the backpack through the zippered closure (32). Godshaw, however, also discloses a pack and, like Gausling et al., teaches that support straps (50,52) extend over the top of the pack, the support straps serving to maintain the shape of the bag and to provide more support the load being carried in the pack (col. 3 lines 6-13) and the support straps further including separation clips (60) that allow a user to adjust or detach the support straps and access the top panel opening (22). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include separation clips on the side cinch straps and shoulder cinch straps of the modified Ivarson et al. backpack, as taught by Godshaw, so that a user could

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have easier access to the opening (32) of the backpack. The addition of these separation clips effectively transforms the support straps of the modified Ivarson et al. backpack into adjustable cinch straps.

Regarding claims 18, 23, and 31, Ivarson et al. discloses that the back panel (16) may be reinforced with a layer of material in order to enhance rigidity (col. 2 lines 56-59). Gausling et al., as previously mentioned, teaches that a panel of a backpack may be given rigidity by providing a semi-rigid board on the panel. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to position a semi-rigid back board on the back-facing panel of the modified Ivarson et al. backpack in order to enhance the backpack's rigidity for support purposes.

Regarding claims 19 and 32, Ivarson et al. discloses that the back-facing panel may include a cushion material for increased comfort to the user (col. 2 lines 59-61).

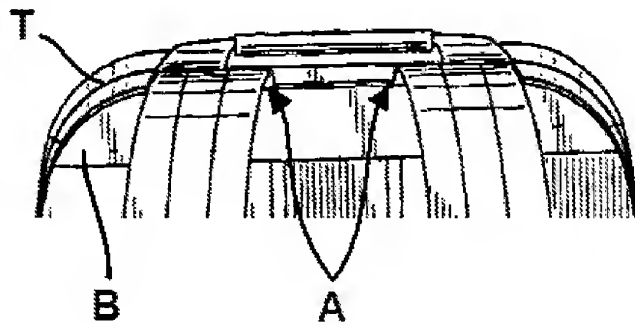
Regarding claims 22 and 53, the shoulder strap cinch straps of the modified Ivarson et al. backpack have one end attached to the away-facing face of the backpack and the other end attached to the shoulder straps at a spaced distance from the back-facing face of the backpack, as taught by Gausling et al. The cinch straps are also adjustable, as allowed by the separation clips taught by Godshaw. The remaining limitations in the claim are satisfied by the modified Ivarson et al. backpack as applied to claim 17 above.

Regarding claim 24, the cinch straps of the modified Ivarson et al. backpack as applied to claim 22 above satisfy the claim's limitations.

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Regarding claims 37, 41, and 51, the cinch strap of the modified Ivarson et al. backpack, as taught by Gausling et al., would have one end connected to the backpack body and one end attached to the shoulder strap wherein the two ends would be on opposite sides of the closure member (32) of Ivarson et al.

Regarding claims 38, 42, 44, 48, the back-facing face of the modified Ivarson et al. backpack has a top end (T, figure below) and the shoulder strap is connected to the back-facing face (B, figure below) at a position (A, below) spaced from the top end of the back-facing face.



Regarding claims 39 and 45, the shoulder strap cinch strap of the modified Ivarson et al. backpack has a first end positioned towards the away-facing face, as taught by Gausling et al.

Regarding claims 47 and 50, the claims combine limitations that have already been shown to be unpatentable over the modified Ivarson et al. backpack. The claims further recite the shoulder strap cinch strap having two portions, one connected to the shoulder strap, and one connected to the backpack body, where the two portions are connected to different parts of a quick-release mechanism. The buckled cinch strap of the modified Ivarson et al. backpack, as taught by Gausling et al. and Godshaw,

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includes two portions, one attached to the shoulder strap and one to the backpack body, as taught by Gausling et al., where the two portions are connected to different parts of a quick-release mechanism, as taught by Godshaw.

4. Claims 3 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied in paragraph 3 above in view of Shook (US 5,911,348).

Regarding claim 29, the modified Ivarson et al. backpack includes the claimed features except for the back-facing face having at least one air channel defined thereon, wherein said air channel has at least one opening at the periphery of the said back-facing face.

While the modified Ivarson et al. backpack includes padding on the back-facing panel, Shook teaches that it is known in the art to use padding that provides a series of air channels on the back-facing panel between the backpack body and the user's back in order to provide ventilation and comfort along a user's back. It would have been obvious to one having ordinary skill in the art at the time the invention was made to also use padding that provided at least one air-channel on the modified Ivarson et al. backpack, as taught by Shook, in order to provide ventilation along a user's back and help to prevent excessive perspiration and possibly discomfort.

Regarding claim 3, at least one, if not all, of the air channels taught by Shook can be considered to face the spine of a wearer, as they face the user's back in general and the spine is located on the back, and all are certainly sufficiently deep so as to avoid contact with the spine of said wearer when in use, effectively satisfying the limitations of the claim.

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5. Claims 40, 43, 46, and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied in paragraph 3 above in view of Gleason et al. (US 5,975,387 A).

The modified Ivarson et al. backpack includes the claimed features except for the shoulder strap cinch strap having a length adjustment strap positioned in front of the wearer when the wearer is wearing the backpack. Instead, the cinch straps, as taught by Gausling et al., are fixedly attached to a portion (310) of the shoulder strap that is not in front of the wearer. Gleason et al., however, also disclose a backpack having load-distributing cinch straps (54) extending between the pack body and the shoulder straps and teach that the cinch straps can be adjustably attached to the shoulder straps via an adjustment buckle (56). A portion of the cinch strap lies in front of the user so that the users can access the cinch strap to adjust the position of the load on their back (Figure 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the fixed cinch strap attachment of the modified Ivarson et al. backpack with an adjustable attachment, as taught by Gleason et al., so that a user could easily adjust the position of the load on their back by adjusting a portion of the cinch strap located on their front side within easy reach.

Claim Objections

6. Claims 59-62 are objected to because in each of these claims, "the front-facing face" should read "the away-facing face".

Response to Arguments

7. Applicant's arguments filed 5/27/08 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Larson whose telephone number is (571) 272-8649. The examiner can normally be reached on Monday - Thursday, 6am-10am, 12pm-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. M. L./
Examiner, Art Unit 3782
8/17/08

/Nathan J. Newhouse/
Supervisory Patent Examiner, Art Unit 3782